Single Bench (3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

W.P 5621 05

PETITIONER : RAMBASH CHANDRVANSHI
aged 75 years
S/O HARI RAM CHANDRAVANSH
R/O VILLAGE PARASVARA
P.O. PIPARIA
TAH. & DISST. KAWARDHA (C.G.)

R.R. No. 290/05
Presented by Shri Hari Ma.
dated 25.01.05

VS.

RESPONENT :
1.RAJESH KUMAR AGED35 YEARS
S/O LAT. RAM NARAVAN KSHARI
2. SMT. SHITA BAI AGED 60 YEARS
W/O LAT.RAM NRAVAN KESHARI
BOTH R/O VILLAGE &P.O. PIPARIA
TAH. & DISST. KAWARDHA (C.G.)

3. SUB.DIVISION OFICER KAWARDHA
DISST. KABIR DHAM(C.G.)

4. SATE OF CHATTISGARH
THROUGH .
THE COLLECTOR KAWARDHA
DISST. KABIR DHAM(C.G.)

13/12/04

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

1.**Particular of petitioner** :

As given in the cause titile .

2.**Particular of respondents:**

As given in cause title.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. 562/ **सन्** 2005

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

1-3-2005

Sri Avinash Mishra, counsel for the petitioner.

Sri Sumesh Bajaj, Deputy Govt. Advocate for the State/ respondents No.3 and 4.

Heard both the counsel.

The petitioner has preferred this writ petition under Article 226/ 227 of the Constitution of India, being aggrieved by the order dated 3-9-2004 passed by the Additional District Judge (Fast Track Court), Kawardha, in Civil Suit No.3-A/2003 on an application filed by the defendant under Section 35 of the Indian Stamp Act, 1899, raising the point that the document in question i.e. the agreement to sale is not sufficiently stamped. Vide the impugned order allowing that application, the Additional District Judge ordered the plaintiff petitioner herein to deposit the deficit stamp fee as well as 10 times penalty of the same.

The only grievance raised by learned counsel for the petitioner herein is that the learned Additional District Judge has not mentioned in the order that how much deficit stamp was there and how much amount the petitioner has to deposit in order to comply with the provisions of Section 35 of the Indian Stamp Act, 1899.

Perusal of the impugned order reveals that the learned Additional District Judge has not mentioned in the impugned order that the document in question i.e. the agreement to sale was how much

GRPRJ—FS/350—12/2000—50,000.

(22)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.562/ **सन्** 2005

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

insufficiently stamped and the petitioner is required to pay how much stamp duty together with the penalty.

The point raised by learned counsel for the petitioner is legally tenable. While passing the impugned order, the learned Additional District Judge ought to have passed the order that the document in question i.e. the agreement to sale was much insufficiently stamped. The learned Additional District Judge was required to pass an order mentioning the exact amount of the insufficient stamp and also the ten times penalty amount.

Therefore, the learned Additional District Judge is directed to pass an order fixing the insufficient stamp duty to be paid by the petitioner along with the penalty amount and to allow the petitioner to pay the same within a stipulated time to be fixed by the Court below.

With the direction aforesaid, the writ petition stands disposed of.

Consequently, M.(W.)P.No.461/2005 also stands disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C.Bhadoo
Judge

Soma

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